

House Commerce Committee Amendment

Amendment No. 1 to HB0387

**Rhinehart
Signature of Sponsor**

AMEND Senate Bill No. 376

House Bill No. 387*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting Section 17 of the printed bill and by substituting instead the following:

SECTION 17. Creation and Retention of Electronic Records and Conversion of
Written Records by governmental agencies.

(a) Except as may otherwise be specifically required or prohibited by applicable law, the information systems council established under Section 4-3-5501 shall determine whether, and the extent to which, this State or any of its departments or agencies will create and retain electronic records and convert written records to electronic records.

(b) Except as may otherwise be specifically required or prohibited by applicable law, and subject to the provisions of Section 19 of this Act, all local governmental public officials, including but not limited to officials of counties, municipalities, utility districts, other local governmental entities and those offices enumerated under Section 8-22-101, shall themselves determine whether, and the extent to which, they will create and retain electronic records and convert written records to electronic records.

(c) In addition to any requirements established by this act, any governmental agency creating and retaining records in electronic format shall do so in accordance with the standards and limitations established in Section 10-7-121. Likewise, any county official providing computer access and remote electronic access to governmental records shall do so in accordance with the standards and limitations for such practice established in Section 10-7-123. Nothing in this act shall be construed as relieving a county official from complying

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with the provisions of Title 10, Chapter 7, Part 4 regarding the retention of county public records, specifically the provisions of Section 10-7-404(d) which requires approval of the county public records commission prior to the destruction of original documents which have been transferred to computer storage media.

AND FURTHER AMEND by deleting Section 18 of the printed bill and by substituting instead the following:

SECTION 18. Acceptance and Distribution of Electronic Records by governmental agencies.

(a) Except as may otherwise be specifically required or prohibited by applicable law, and except as otherwise provided in Section 12(f) of this act:

(1) The information systems council established under Section 4-3-5501 shall further determine whether, and the extent to which, this state or any of its agencies and departments will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures; and

(2) Subject to the provisions of Section 19 of this act, any local governmental public official, including but not limited to officials of counties, municipalities, utility districts, other local governmental entities and those offices enumerated under Section 8-22-101, making determinations under Section 17(b) of this act shall each themselves further determine whether, and the extent to which, they will send and

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accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that any governmental agency uses electronic records or electronic signatures under subsection (a), the information systems council established under Section 4-3-5501, giving due consideration to security, may so specify as set forth below:

(1) The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(2) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identify of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(3) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(4) Any other required attributes for electronic records which are specified for corresponding non-electronic records or reasonably necessary under the circumstances.

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(c) Except as otherwise provided in Section 12(f) of this act, this act does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

AND FURTHER AMEND, by deleting Section 19 of the printed bill and by substituting instead the following:

SECTION 19. Interoperability. The information systems council may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states, and the federal government and non-governmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application. Any deviation from the standards established by the information systems council by a local governmental public official, including but not limited to officials of counties, municipalities, utility districts, other local governmental entities and those offices enumerated under Section 8-22-101, shall be subject to the approval of the comptroller of the treasury.

AND FURTHER AMEND by adding the following as new subsections (b) and (c) in Section 22 of the printed bill and by relettering the existing subsections (b) and (c) accordingly:

(b) The Tennessee Code Commission is requested to note under Title 5, Chapter 24, that the provisions of this act are a substitution for the former provisions of Title 5, Chapter 24.

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(c) The Tennessee Code Commission is requested to include the following additional comment with the text of official comment number 4 to Section 2 of the Uniform Electronic Transactions Act in any codification of official publication containing the act:

As explained by the text of Official Comment 4, the definition of “electronic” is intended to be broad. As a clarification only, this comment confirms the intention that the definition include information sent by telephone or like equipment, whether the transmission is over land lines, by wireless means or otherwise.

AND FURTHER AMEND by adding the following as a new Section 19 and by renumbering the existing Section 19 of the printed bill and subsequent sections accordingly:

SECTION 19. Filing of pre-implementation statement and post-implementation review.

(a) Any local governmental public official, including but not limited to officials of counties, municipalities, utility districts, other local governmental entities and those offices enumerated under Section 8-22-101, implementing an electronic business system that provides for the sending and receiving of electronic records that contain electronic signatures and/or authorizations shall file a statement with the comptroller of the treasury at least thirty (30) days prior to offering such service. The statement shall contain the following information:

(1) A description of the computer hardware and software to be utilized;

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(2) A description of the policies and procedures related to the implementation of the system;

(3) Documentation of the internal controls that will ensure the integrity of the system;

(4) A description of the local governmental public official's personnel who will be responsible for the implementation of the system;

(5) A description of the types of records and transactions to be electronically communicated, as well as a description of the transaction and/or record authorization process including a description of any electronic signatures to be used;

(6) The estimated cost of the system including development and implementation costs; and

(7) The expected benefits and/or the estimated cost savings, if any, of conducting business by electronic means.

(b) A local governmental public official who implements an electronic business system shall provide to the comptroller of the treasury a post-implementation review of the system between twelve (12) and eighteen (18) months after the date a statement described in this section has been filed with the comptroller. The review shall include

(1) An assessment of the system by the local governmental public official;

(2) Responses from a survey of users of the system; and

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(3) Any recommendations for improvements to the electronic
business system.

AND FURTHER AMEND by deleting subsections (a) and (b) from the existing Section
23 of the printed bill and replacing them with the following:

The information systems council shall perform the functions for which it is
responsible under Sections 17 through 20 of the Uniform Electronic Transactions Act.

AND FURTHER AMEND by adding the following as a new section immediately prior to
the effective date section and renumbering accordingly:

SECTION __. Tennessee Code Annotated, Title 5, Chapter 24, is deleted in its
entirety.

AND FURTHER AMEND by deleting the effective date section of the printed bill and by
substituting instead the following:

SECTION __. For the purposes of the information systems council establishing
standards and procedures, this act shall take effect upon becoming a law. For all other
purposes, this act shall take effect July 1, 2001, the public welfare requiring it.